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FOR IO/MPR - G. ABRAHAMS

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SUBJECT: NEGOTIATIONS ON HUMAN RESOURCES MANAGEMENT REFORM  
COMING TO A HEAD

REF: STATE 129988

¶1. BEGIN SUMMARY: After more than a dozen negotiating sessions, the Fifth Committee has reached an impasse on streamlining of contracts and harmonization of conditions of service for UN staff. In an effort to reach a compromise, the U.S. submitted revised proposals (see para 4 below). Those proposals met with continuing resistance. At the conclusion of the last marathon session on Monday evening, December 15, it was agreed that all participants would review their positions, seeking guidance from capital as may be necessary, and resume discussion later in the week in an effort to reach agreement. There is little time left in the session and if agreement cannot be reached the matter will once again be deferred, possibly until the next General Assembly in the Fall of 2009. This is an action cable. See paragraph 10. END SUMMARY.

¶2. BACKGROUND: The Fifth Committee discussed measures to streamline contracts and harmonize conditions of service during the first resumed session of the 62nd UNGA last March and was on the verge of accepting a package. The U.S., along with Japan (with tacit support from Mexico and Russia) could not agree to that proposal and the U.S. said it would develop an alternative proposal for consideration in the 63rd UNGA. Our proposal (see Reftel) was developed during the summer and we have been meeting since, individually and collectively, with other member states and Secretariat officials in an effort to explain the proposal and build support.

¶3. Our proposal has consistently met with resistance from the Secretariat, EU, CANZ, and the Group of 77, all of whom demonstrate a reluctance to depart from the March proposal. We believe their reluctance is driven by an aversion to getting into the difficult and complex matters associated with this issue. Note: the estimated annual cost for the March proposal has risen from an estimated \$90 million to \$107 million, based on projected increases in the number of peacekeeping personnel. END NOTE. Given the initial rejection of our new proposals, we do not believe the G-77, EU, or CANZ are prepared to compromise unless forced to do so. Japan, on the other hand, strongly supports our approach

¶4. There are three principal objections to the USG proposal: 1) use of temporary contracts for staff of peacekeeping and other missions; 2) the failure to provide an assured avenue into the Organization after completing the temporary contract; and 3) the low level of compensation/benefits for temporary contracts. Attention was initially focused on compensation/benefits and expanded as the discussion progressed to include the other objections. Our recent proposals (see para 5) sought to address all three concerns, but initially have failed to impress other member states which seemed to reject them out of hand.

¶5. We have submitted revised language that a) provides temporary contracts with the same level of compensation and benefits as currently exists for 300 Series appointments; b)

provides for an interim fixed-term mission-specific contract for those who have served satisfactorily for at least two years on temporary contracts but who have not received a regular fixed-term contract, provided there is a demonstrated need for continuation of the function they are performing; c) removes our proposal for a two-tier system of fixed-term contracts; and d) extends the exemption from temporary contracts to P-5 level appointments .

¶6. The USG views temporary contracts as applying broadly to functions of a limited duration that would include peacekeeping and special political missions (approximately 4,000 positions at present). However, other member states insist it should be limited to functions of an extremely brief nature such as election monitoring and translation services for particular conferences (approximately 400 positions).

¶7. The USG and Japan view using temporary contracts as a portal for entering the Organization for individuals serving in such missions. However, other member states disagreed with this view and insisted that they immediately be offered fixed-term contracts, as with any other individuals seeking to become a regular member of the organization.

¶8. We and Japan (and Russia) object to the entry of individuals joining such missions being given fixed term contracts or being automatically converted from temporary 300 Series contracts to 100 Series contracts, which are considered as regular positions in the Organization, because of the large financial and policy implications. However, other member states discount or disagree with these concerns and insist that these individuals cannot be left in temporary

contracts more than a year or two.

¶9. JUSKCANZ representatives met on December 17 to discuss the revised US proposal. The US noted the lack of response from the other members to our revised language despite the agreement last week to find something acceptable between the March proposal and our latest proposal, and stressed the need to find some compromise. CANZ offered language that they cast as a compromise, but was extremely modest and in effect only tinkered with the March proposal. The US expressed concern that their proposal, while welcome, did not address the fundamental issues. The US then suggested that one solution might be 'sequencing', starting out with our proposal, but implementing the March proposal if the US proposal was not achieving the objectives. Essentially rejecting the sequencing proposal, CANZ suggested that US concern about wholesale automatic conversion to fixed-term contracts could be addressed by dealing directly with the issue of expectation of renewal. We then brought up the UK's suggestion to us and the CANZ of having a probationary period at the start of a fixed-term contract, with reduced benefits. CANZ also criticized this proposal. The US exhorted all to find a way to bridge the gap in the few remaining days. The meeting ended with no significant change on the part of CANZ, who subsequently reaffirmed that they would not change their position and would only propose their language on temporary contracts.

¶10. OPTIONS: We will be resuming Thursday evening, December 18, the negotiations on this matter, with the Fifth Committee winding up all the many issues confronting it by December 22.

We request guidance on how to proceed. We have identified three possible options.

**OPTION 1:** We can continue to press our proposal without further compromise. Such a position would undoubtedly engender a strong negative reaction from other member states. Given the opposition of the EU, CANZ, and G-77, and expected Government of Japan support, this could result in deferral of action on this matter. The discussion in the Fifth Committee indicates that failure to take action will not lead to a vote but simply deferral of the proposal. There has been some speculation, especially by Western supporters of the March

proposal, that failure to take action could lead to termination of the special allowances for UNAMI and UNAMA. However, as recognized in the JUSKCANZ meeting, it is unlikely that the G-77 would terminate such allowances. Rather, it is more likely they would seek special allowances for other missions, e.g. MONUC.

OPTION 2: Simply abandon our proposal and agree to support the March proposal. This option would leave unresolved our serious objections to the use of 100 Series fixed-term contracts for new hires as well as any automatic conversion of many current 300 Series contracts, with very significant policy and financial implications.

OPTION 3:

(a) Pursue the idea of fixed-term contracts with an initial probationary period and reduced benefits, along with the following conditions:

- (i) our language on temporary contracts, as revised by CANZ, stays;
- (ii) special allowances for UNAMA and UNAMI remain in effect until July 1, 2009, leaving open the option to implement special allowances thereafter, if warranted;
- (iii) there must be legally binding language explicitly stating that fixed-term contracts carry no obligation or expectation of extension or renewal;
- (iv) all staff currently on a 300 Series appointment with four or more years of satisfactory service will be converted to a 100 series fixed-term contract; staff with less than four years service on a 300 Series appointment would have to compete for an available fixed-term contract

(b) If there's no traction on the probationary period for fixed-term contracts in (a) above, agree to support the March proposal, provided the agreement includes (i) through (iv).

¶11. The conditions in (i) through (iv) above would only help to address some of our concerns regarding cost and the use of 100 Series contracts for peacekeeping and special political missions. While (i) or (ii) of OPTION 3 might be acceptable to other member states, there could be resistance to points (iii) and (iv) above. These latter two conditions are critical, although there may be other approaches to satisfying our concern on (iv).

¶12. Post recommends OPTION 3.

Khalilzad